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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/794,332	02/03/97	CHAMBERS	W 623-00027

PM82/0322  
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100 EAST WISCONSIN AVENUE SUITE 1100  
MILWAUKEE WI 53202-4178

EXAMINER

ROWAN, K

ART UNIT	PAPER NUMBER
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3643

*16*

• DATE MAILED: 03/22/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/794,332**

Applicant(s)

**CHAMBERS**

Examiner

**Kurt Rowan**

Group Art Unit

**3643**



☒ Responsive to communication(s) filed on Jan 13, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 2-18 and 26-38 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 2, 27, and 28 is/are allowed.

☒ Claim(s) 3-18, 26, and 29-38 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3643

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on Jan. 13, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/794,332 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson.

The patent to Wilson shows a fishing lure having a head 1 with first and second legs 4 as shown in Fig. 1. The legs are connected to the rear of the body and extend rearwardly from the rear end of the body. Each leg defines an inner edge and an outer edge with the inner edge being concave

Art Unit: 3643

arcuate outwardly toward the forward end of each leg. The concave arcuate portions of the inner edges of the legs cooperate to define an opening between the legs which is concave at the forward end and open at the rearward end. This separates the rearward ends of the legs. The outer edge of each leg defines an arcuate outward curvature extending rearwardly of the head and terminating toward the leg rearward end.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 5, 16, 17, 18, 26, 29-31, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as applied to claim 32 above, and further in view of Parman.

The patent to Wilson shows a fishing lure as discussed above with mirror image legs. The patent to Parman shows a fishing lure having a body 25 and legs 70, 71. The legs have a first width adjacent the body and a second width greater than the first width at a location spaced rearwardly therefrom such as at the foot portion 60, 61. In reference to claims 17, 18, 26, 29, Wilson shows all of the elements recited, such as the void area between the legs and the outer curvature of the legs being convex, with the exception of the widths of the legs. However, it would have been

Art Unit: 3643

obvious to provide Wilson with a leg configured as shown by Parman since merely one leg is being substituted for another and the leg of Parman is a more natural appearing leg. In reference to claim 3, Wilson shows a generally planar upper surface and a second generally planar bottom surface. In reference to claim 5, Wilson shows legs with a generally planar upper surface and generally planar bottom surface. In reference to claim 16, Wilson shows the bottom surface of each leg defining a shoulder adjacent the rearward end of the head.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adam in view of Freeman for substantially the same reasons stated in the last Office Action.

The patents to Adam and Freeman show fishing lures. Adam has been discussed in the first Office Action and shows the legs having a thickness less than the head and the outer edges of the legs have a generally convex shape. Freeman shows a lure with a head portion 42 in Fig. 4 and two legs 43 with each leg having a first width adjacent the head and a second width greater than the first width at a location spaced rearwardly therefrom. In reference to claim 18, Adam shows all of the elements recited with the exception of the widths which is shown by Freeman. It would have been obvious to provide Adam with leg widths as shown by Freeman since merely substitution of one leg shape for another is contemplated.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson and Parman as applied to claim 3 above, and further in view of Adam.

Art Unit: 3643

The patents to Wilson, Parman, and Adam show fishing lures and have been discussed above or in prior Office Actions. In reference to claim 4, Wilson shows legs having parallel upper and lower surfaces with the upper surface of each leg in a plane common to the plane of the bottom surface of the body as shown in Fig. 2. Wilson shows the head having a thickness greater than the legs. Adam shows a fishing lure having a body portion and legs with the legs being in a common plane with the upper surface of the head. It would have been obvious to provide Wilson as modified by Parman with the legs mounted in a common plane to the top surface of the body as shown by Adam since the function is the same and no showing of unexpected results was made as to the location of the legs.

9. Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson and Parman as applied to claim 5 above, and further in view of Koonz et al.

The patents to Wilson, Parman and Koonz show fishing lures. Wilson and Parman have been discussed above. Koonz shows a lure with a plurality of cylindrical nipples 27 as shown in Fig. 6 projecting upwardly as shown in Fig. 7 and are contemplated to extend upwardly and downwardly as disclosed in column 2, lines 21-30. Koonz shows projecting the corresponding partial cylindrical lens 20-21 both upwardly and downwardly in Fig. 2. In reference to claims 6, 8, Wilson as modified by Parman do not show a plurality of nipples. It would have been obvious to provide Wilson and Parman with cylindrical nipples as shown by Koonz to increase light reflection to attract more fish. See column 2, lines 9-20. In reference to claims 7, 13 Koonz shows the nipples in transverse rows to the longitudinal axis of the lure. In reference to claim 10, Koonz

Art Unit: 3643

shows the upper surface of the head 10 having a plurality of cylindrical nipples. In reference to claims 11-12, it would have been obvious to provide the legs of Wilson as modified by Parman with a plurality of cylindrical nipples to reflect fish attracting light. Applicant should recite that the nipples terminate in a planar surface at a right angle to the axis of the cylinder. The axis of the cylinder is perpendicular to the plane of the lure head and legs.

*Allowable Subject Matter*

10. Claims 2 and 27-28 are allowed.

11. The claims should recite that the lure terminates at the junction of the convex outer edges 36, 38 and the rear end of the linear portions 50, 52 of the inner edges 44, 46. Also, the art of record does not show the flexible portions 35, 37 extending parallel to the rearward linear portions.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Solovioff and French 2 327 727 show other frog lures.

13.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, slightly slanted style.

KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

March 21, 2000